

DIRECTIVE

JOB TRAINING PARTNERSHIP ACT

Number: D97-26

Date: June 23, 1998
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TO: SERVICE DELIVERY AREA ADMINISTRATORS
PRIVATE INDUSTRY COUNCIL CHAIRPERSONS
JTPD PROGRAM OPERATORS
EDD JOB SERVICE OFFICE MANAGERS
JTPD STAFF

SUBJECT: PROTOCOLS AND GUIDELINES FOR STATE MONITORING REVIEWS

EXECUTIVE SUMMARY:

Purpose:

This Directive establishes protocols and guidelines for monitoring reviews conducted by state monitors.

Scope:

The information in this Directive applies to all state monitoring reviews.

Effective Date:

This Directive is effective the date of issuance.

REFERENCES:

- JTPA 164(a)(3)(H), (a)(4)
- Title 20 Code of Federal Regulations (CFR) 627.420(f)(1)
- Title 20 CFR 627.475(b)

STATE-IMPOSED REQUIREMENTS:

This document contains state-imposed requirements. These requirements are in ***bold, italic*** print.

FILING INSTRUCTIONS:

This Directive supersedes Directive D95-33, dated April 10, 1996.

BACKGROUND:

These protocols are intended to promote clarity of communications, efficiency in completing monitoring reviews, and a greater understanding, by all parties involved, of the procedures used in conducting monitoring reviews. The protocols included in this

Directive incorporate ideas, suggestions, and comments from Service Delivery Areas (SDA), and reflect the state's commitment to effective oversight of the Job Training Partnership Act (JTPA) program. They apply to the conduct of the Employment Development Department's (EDD) routine monitoring reviews of SDAs. However, these protocols do not apply when, during the course of a monitoring review, the monitor discovers instances of fraud or abuse. In such instances, JTPA Directive 91-2, FRAUD AND ABUSE, dated June 28, 1991, will apply.

PROCEDURES:

I. Notice of Selection for Review

- A. Staff from the JTPA Monitoring Section, Compliance Review Division (CRD monitor) will contact the SDA administrator or his/her designee (or Substate Grantees, as appropriate) selected for monitoring reviews to establish a date for an entrance conference as soon as practicable, but generally at least ten working days in advance of the visit. To the maximum extent possible, SDAs should identify and resolve issues prior to the review.
- B. The SDAs selected for monitoring reviews will be notified in writing, along with their assigned Job Training Partnership Division (JTPD) program manager, of their selection and will be provided with the appropriate monitoring guide so they may be fully informed as to the scope and depth of the review. Every effort will be made to include the statutory and regulatory criteria for the items specified in the monitoring guide. If an SDA is notified of an EDD monitoring review directly by someone other than a CRD monitor, the SDA should inform the Deputy Director of the EDD's Program Review Branch immediately.
- C. The written notification of monitoring reviews will include identification of the subject areas to be reviewed, whether subcontractor or employer visits will be required, and the types of files and sample documentation that will be needed. The notification will also include the anticipated duration of the review and the number of CRD monitors who will be onsite to conduct the review.

II. Entrance Conferences

The lead CRD monitor will participate in an entrance conference with the SDA administrator or his/her designee. The entrance conference will accomplish the following:

- The lead CRD monitor will provide the following information: the names of all monitors who will be onsite; a description of the scope of the review, including follow-up issues from past monitoring reviews and/or the results of reviewing the SDA's responses to the Administrative Review Guide; the subrecipients who will be visited (if known); and the expected timeline for the review.
- The SDA administrator will designate staff responsible for the selected review areas to act as contact persons for the monitors.
- The SDA will inform subrecipients of planned reviews and will make appointments with subrecipients upon request of the lead CRD monitor.

- The lead CRD monitor will establish a schedule of appointments for SDA staff interviews. Interviewees may be designated by the SDA administrator.

III. Onsite Review Process

- A. Prior to the onsite portion of the review, the CRD monitor will secure and review documents such as reports of previous audits or monitoring visits, SDA two-year plans, SDA performance and expenditure data, single audit reports, unresolved issues, documentation concerning completed corrective actions, and discuss unresolved issues referred to the Compliance Review Unit.
- B. Prior to the onsite portion of the review, the CRD monitor will contact SDA staff to obtain operational and participant information specific to the type of monitoring review to be conducted.
- C. During the onsite review, the CRD monitor will notify the SDA administrator and the assigned JTPD program manager if he/she sees an issue that could be cited in the draft report. The SDA will have the opportunity to perform corrections onsite during the review. If such corrections are acceptable to the monitor, the issue may appear in the report with the notation that corrective action has been taken and that further corrective action is not necessary.
- D. No original documents may be removed from the SDA offices or subrecipient offices; rather, the CRD monitor will obtain copies of original documents for purposes of any review.

IV. Exit Conferences

- A. At the completion of the onsite review, the CRD monitor will hold an exit conference with the SDA administrator or his/her designee and will notify the SDA's assigned JTPD program manager in advance of the scheduled exit conference.
- B. During the exit conference, the CRD monitor will disclose all issues that may be included in the draft report as either potential findings or concerns. If, after the exit conference, findings or concerns are substantially revised, or findings or concerns not discussed at the exit conference are added to the report, the SDA administrator and the JTPD program manager will be notified before the publication of the draft report. If the additional findings or revisions are significant in the judgment of the SDA administrator, he/she may request a second exit conference to discuss the new or substantially revised items.
- C. The CRD monitor will always cite the applicable federal or state law, regulation, policy, directive and/or subgrant provision related to the JTPA that applies to a finding. The CRD monitor will provide full information on the procedure for responding to the draft monitoring report.

V. Monitoring Report - Draft Stage

- A. The CRD will issue a draft monitoring report to the SDA within 25 working days after the exit conference and will request a response within 25 working days of the SDA's receipt of the draft report. The draft report will clearly differentiate the following two areas:

1. Findings that specify noncompliance with a federal or state law, regulation, policy, directive, and/or subgrant related to the JTPA. Each finding will have a related recommendation that the SDA meet the applicable requirements and, as the CRD deems necessary, provide the CRD with documentation that demonstrates compliance.
 2. Concerns regarding observed conditions that could become areas of noncompliance or poor program performance. Each concern will have a related suggestion for the SDA administrator's consideration.
- B. The CRD will provide a copy of the draft monitoring report to the JTPD's Program Management Section at the time the report is forwarded to the SDA. The Chief of the JTPD will ensure that a JTPD program manager is assigned to assist the SDA in developing corrective action to resolve any findings. Upon receipt of a draft report containing findings, the appropriate JTPD program manager will contact the SDA to determine if technical assistance is desired.
 - C. If the results of a monitoring review disclose no areas of noncompliance and no concerns regarding observed conditions that could become areas of noncompliance or poor program performance, the CRD may issue a final monitoring report at this time. The SDAs may submit a response to this final report if so desired; however, SDAs are not obligated to do so.
 - D. For joint federal and CRD monitoring reviews, either the federal Department of Labor, Region IX or the CRD may issue the monitoring report.

VI. SDA Response to Draft Report

An SDA's response to a draft monitoring report may include:

- A statement agreeing or disagreeing with any finding.
- The SDA's proposed Corrective Action Plan (CAP) to resolve any findings, including the identification of the major tasks involved and the appropriate timelines for their implementation.
- The SDA's interpretation of any issue and any additional information that may help resolve any findings.
- Any information the SDA chooses to submit regarding a concern included in a report.

VII. Final Report

- A. The CRD will issue a final monitoring report to the SDA within 20 working days after receipt of the SDA's response to the draft report. Based on its analysis of the SDA's response, the final report will contain those elements noted in Section V. Monitoring Report - Draft Stage, Part A, and will include a narrative of the SDA's response and the CRD's conclusions regarding the status of each finding specified in the draft report. The CRD will request a written response within 20 working days of the SDA's receipt of the final report addressing the unresolved findings.

- B. The final report will differentiate the following:
1. Findings that are resolved and closed.
 2. Findings that are resolved and remain open until a CRD monitor can verify, during a future onsite monitoring visit, the SDA's successful implementation of the corrective actions stated in the SDA's CAP.
 3. Findings that are not resolved and require the SDA to provide the CRD additional documentation and/or a CAP.
- C. The CRD will provide a copy of the final report to the JTPD's Program Management Section at the time the report is forwarded to the SDA. The appropriate JTPD program manager will continue to provide technical assistance to the SDA including, as necessary, assisting the SDA in developing a CAP to secure acceptable corrective action for each unresolved finding.

VIII. Resolution of Monitoring Findings

- A. Within 20 working days after receipt of the SDA's response to the final monitoring report, the CRD will issue a "Status of Unresolved Findings" letter to the SDA that addresses all open findings. If the SDA's response to the final monitoring report is adequate to resolve the finding(s), the letter will state the elements outlined in Section VII. Final Report, Part B.1 and/or 2, as appropriate. However, if the SDA's response is not adequate to resolve a finding(s), the CRD will refer the unresolved finding(s) to either the JTPD's Program Management Section or to the CRD's Compliance Resolution Unit (see Section VIII. Resolution of Monitoring Findings, Part E).
- B. For Status of Unresolved Findings letters which refer unresolved findings to the JTPD, the SDA must, within 20 working days of receipt of the letter, submit to the JTPD a CAP or other appropriate documentation to resolve any open findings. The appropriate JTPD program manager will continue to work with the SDA to secure acceptable corrective action for each finding, including, as necessary, assisting the SDA in developing a CAP, and reviewing all CAPs before they are submitted to the CRD. The CAPs must describe all major tasks or activities that are planned to resolve findings and include appropriate schedules for implementation. The CAPs should cite any SDA concerns with findings and should also explain if state or federal actions are required for their final resolution. If a CAP includes the same information as the SDA's response to the draft report, the SDA need not submit a CAP, but shall notify the CRD and appropriate JTPD program manager in writing of this fact.
- C. For Status of Unresolved Findings letters that refer unresolved findings to the JTPD, the JTPD will submit to the CRD within 25 working days of the SDA's receipt of the letter the SDA's CAP along with the JTPD's written conclusion concerning the adequacy of the CAP. The CRD will review each CAP and determine if it is adequate to resolve each finding. The CRD will, within 15 working days of receipt of the CAP, inform the SDA and the JTPD in writing whether the CAP is adequate to resolve the finding. If the CAP is found to be

inadequate, the CRD will request that it receive a revised CAP from the SDA within 10 working days.

- D. If a CAP is not received by the JTPD within 20 working days of the SDA's receipt of the Status of Unresolved Findings letter, the manager of the JTPD's Program Management Section will contact the SDA administrator to expedite the SDA's submission of the CAP and will inform the manager of the JTPA Monitoring Section of the contact. If the JTPD has not received a CAP within the next 10 working days, the Chief of the JTPD will contact the SDA administrator to expedite the SDA's submission of the CAP and will inform the Chief of the CRD of this contact. If the JTPD still has not received a CAP within the next 10 working days, the Deputy Director of the Workforce Development Branch will notify the appropriate PIC Chair and the Deputy Director of the Program Review Branch in writing of these circumstances and will request immediate action by the PIC Chair. If appropriate action is not taken within the next 10 working days, the Director of EDD will notify the Chief Elected Official responsible for the SDA and PIC activities in writing that a CAP has not been submitted.

Except as agreed to by the CRD and the JTPD in advance, the SDA is required to implement corrective actions within 60 working days following receipt of the final report.

- E. Unresolved issues concerning potential disallowed costs arising from monitoring findings that are identified in the Status of Unresolved Findings letter will be referred to the CRD's Compliance Resolution Unit by the JTPA Monitoring Section and, after consultation with the JTPA Monitoring Section, by the JTPD's Program Management Section. Resolution of these findings, including debt collection activities, will follow established departmental procedures.

ACTION:

Bring this Directive to the attention of the appropriate staff.

INQUIRIES:

Please direct inquiries about this Directive to your assigned Program Manager.

/S/ BILL BURKE

Assistant Deputy Director